

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Crim. No. 04- ()
	:	
GANNON & SCOTT, INC.	:	18 U.S.C. §§ 1341 & 2

I N F O R M A T I O N

The defendant having waived in open court prosecution by Indictment, the United States Attorney for the District of New Jersey charges:

1. At all times relevant to this Information:

a) Defendant GANNON & SCOTT, Inc. (“GANNON & SCOTT”), with offices and refining operations in Cranston, Rhode Island, was a refiner of precious metals with ten or more employees. At least one of its employees with substantial authority participated in, condoned, or was willfully ignorant of the within offense;

b) various manufacturing businesses retained defendant GANNON & SCOTT to reclaim trace precious metals, including gold, silver, and platinum, from their scrap electronic components, industrial and manufacturing wastes, and jewelry manufacturing;

c) Customer 1, with offices in Hillside, New Jersey, purported to be an industrial cleaning service and a scrap customer of defendant GANNON & SCOTT, but was in fact an undercover business established by the Federal Bureau of Investigation to send lots of scrap materials containing known quantities of precious metals to GANNON & SCOTT for processing.

Refining Procedures

2. In a typical refining transaction, GANNON & SCOTT customers would send industrial drums filled with scrap to be processed in Rhode Island. Upon receipt at GANNON & SCOTT, the scrap was processed, or homogenized, by various melting, chemical refining, burning, or pulverizing processes, depending on the type of scrap involved. After a customer's scrap materials were processed, GANNON & SCOTT extracted a representative sample and analyzed – or assayed – it, in order to determine the amount of precious metals contained in the sample, and by extrapolation, the amount contained in the customer's entire lot. This aggregate calculation was expressed in terms of the total number of troy ounces of a given precious metal contained in the customer's shipment. After calculating the total amount of precious metals in the shipment, GANNON & SCOTT determined the lot's value by multiplying the number of troy ounces by the prevailing market price for the particular precious metal.

3. Defendant GANNON & SCOTT then paid the customer the market value of the precious metals, less certain fees and charges. This last stage of the transaction was known as settling with the customer, and generally involved mailing the customer a document known as a settlement sheet and an accompanying check for the value of the lot. These settlement sheets purported to accurately reflect the true amount of precious metals contained in a customer's lot. Because customers' shipments consisted of mixed lots of scrap containing varying amounts of trace metals, customers were unable to determine with any precision or certainty the amount of precious metals actually contained in their lots before they were shipped to GANNON & SCOTT, and therefore relied on GANNON & SCOTT's representations as to the value of their lots.

4. In addition to providing their customers with settlement sheets, on occasion defendant GANNON & SCOTT also supplied the customers with what purported to be representative samples of their own homogenized material, which could be submitted to an independent laboratory for analysis and assay, if a customer wished to confirm the results reported by GANNON & SCOTT.

5. After completing its refining procedures and settling with its customers, defendant GANNON & SCOTT sent the homogenized materials to certain primary refiners, which would actually extract the precious metals from the scrap, and pay GANNON & SCOTT accordingly.

The Scheme to Defraud

6. From at least as early as January 1998 through at least as late as August 2001, in the District of New Jersey and elsewhere, defendant

GANNON & SCOTT

did knowingly and willfully devise and intend to devise a scheme and artifice to defraud and to obtain money and property from certain of their refining customers by means of material, false and fraudulent pretenses, representations and promises, through the use of the mails, in violation of Title 18, United States Code, Section 1341, which scheme and artifice was in substance as set forth in paragraphs 8 through 12 below.

The Primary Object of the Scheme

7. The primary object of the scheme was for GANNON & SCOTT to fraudulently misrepresent and under-report the content and value of the precious metals

contained in customers' lots and thereby to pay customers less than the amounts to which they were entitled.

8. Before preparing settlement sheets for a customer, certain of defendant GANNON & SCOTT's employees would receive a report from the assay department that would accurately specify the amount of precious metals contained in the lot. These employees would then determine the amount by which they could defraud an individual customer without raising undue alarm. This amount would be based on several factors, including the size of the lot, the nature and cost of the service, the customer's relative importance as a client, as well as historical information, such as the average yield the customer had previously received from GANNON & SCOTT, and whether the particular lot in question contained a higher amount of precious metals than the norm for that customer.

9. Once the decision had been made as to the amount that could safely be under-reported on a particular lot, certain of defendant GANNON & SCOTT employees would and did prepare a fraudulent settlement sheet for the customer, which stated that the lot contained less precious metals than in fact were found, and mailed a check to the customer for an amount less than that to which the customer was entitled.

10. In an effort to conceal their unlawful activity and avoid detection, on occasion certain of defendant GANNON & SCOTT employees would and did prepare fraudulent assay samples for submission to the customers. These samples were not, as represented to the customers, samples of the customers' shipments but rather were created to match the amount of precious metals reported on the settlement sheets, which, if tested by the customers, would fail to reveal the under-reporting scheme.

11. In all, by the above means, defendant GANNON & SCOTT defrauded its customers of approximately \$291,000.

12. On or about April 23, 2001, Customer 1 delivered a shipment to defendant GANNON & SCOTT consisting of three containers of scrap materials, which in fact contained 34.84 troy ounces of gold. Shortly thereafter, defendant GANNON & SCOTT employees processed the material, assayed it, and determined that the lot contained 29.273 troy ounces of gold. GANNON & SCOTT employees thereafter determined the amount by which they believed they could under-report the amount of gold contained in the processed lot, and prepared a settlement sheet stating that the lot contained 23.711 troy ounces of gold. GANNON & SCOTT employees also prepared an assay sample to match the reported content, rather than the actual content of the lot, for submission to Customer 1. On or about May 14, 2001, GANNON & SCOTT employees mailed and caused others to mail the settlement sheet, the sample, and an accompanying check in payment for the reported amount.

13. On or about May 14, 2001, at Hillside in the District of New Jersey and elsewhere, defendant

GANNON & SCOTT,

for the purpose of executing the aforesaid scheme and artifice and attempting to do so, did knowingly and willfully cause to be mailed from a post office and authorized depository for mail matter a matter and thing to be sent and delivered by the U.S. Postal Service, that is, an envelope

from GANNON & SCOTT, Cranston, Rhode Island, addressed to Customer 1, Hillside, New Jersey, containing a settlement sheet and accompanying check.

In violation of Title 18, United States Code, Sections 1341 and 2.

CHRISTOPHER J. CHRISTIE
United States Attorney